



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/351,778	07/12/1999	WILLIAM S. M. WOLD	16153-7775	1203

7590 09/09/2004

STEVEN L. HIGHLANDER  
FULBRIGHT 7 JAWORSKI L.L.P.  
600 CONGRESS AVENUE,  
SUITE 2400  
AUSTIN, TX 78701

EXAMINER

ART UNIT PAPER NUMBER

DATE MAILED: 09/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

9M

**Notification of Non-Compliance  
With 37 CFR 1.192(c)**

Application No.

09/351,778

Applicant(s)

WOLD ET AL.

Examiner

Scott D. Priebe

Art Unit

1632

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on 28 July 2004 is defective for failure to comply with one or more provisions of 37 CFR 1.192(c). See MPEP § 1206.

To avoid dismissal of the appeal, applicant must file IN TRIPLICATE a complete new brief in compliance with 37 CFR 1.192(c) within the longest of any of the following three **TIME PERIODS**: (1) **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer; (2) **TWO MONTHS** from the date of the notice of appeal; or (3) within the period for reply to the action from which this appeal was taken. **EXTENSIONS OF THESE TIME PERIODS MAY BE GRANTED UNDER 37 CFR 1.136.**

1. ☐ The brief does not contain the items required under 37 CFR 1.192(c), or the items are not under the proper heading or in the proper order.
2. ☐ The brief does not contain a statement of the status of all claims, pending or cancelled, or does not identify the appealed claims (37 CFR 1.192(c)(3)).
3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 1.192(c)(4)).
4. ☒ The brief does not contain a concise explanation of the claimed invention, referring to the specification by page and line number and to the drawing, if any, by reference characters (37 CFR 1.192(c)(5)).
5. ☐ The brief does not contain a concise statement of the issues presented for review (37 CFR 1.192(c)(6)).
6. ☒ A single ground of rejection has been applied to two or more claims in this application, and
  - (a) ☐ the brief omits the statement required by 37 CFR 1.192(c)(7) that one or more claims do not stand or fall together, yet presents arguments in support thereof in the argument section of the brief.
  - (b) ☒ the brief includes the statement required by 37 CFR 1.192(c)(7) that one or more claims do not stand or fall together, yet does not present arguments in support thereof in the argument section of the brief.
7. ☒ The brief does not present an argument under a separate heading for each issue on appeal (37 CFR 1.192(c)(8)).
8. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 1.192(c)(9)).
9. ☒ Other (including any explanation in support of the above items):

Item 6: The only groups of claims argued separately are those depending from claim 13 and those depending from claim 60 that are rejected under 35 USC 102(e). There are no separate arguments for claims 68, 70, 72, 20, 22, 64, 66, etc.

Item 7: The brief does not present arguments concerning the rejection of claims 107 and 108 under 35 USC 102(e), and refers (page 22) to claims "72-72," which should be 72-75, and "85-87, 89-91 and 94-99," of which only claims 97-99 were rejected. Claims 85-87, 89-91, and 94-96 were withdrawn from consideration. The brief provides no arguments addressing the rejection under 35 USC 103, which is issue (d) in Section VI of the brief.

Item 9: The brief omits the issue of the standing obviousness-type double-patenting rejection over US 6,627,190, pages 12-13 of the final Office action. Applicant had previously deferred addressing this issue until the originally provisional rejection was no longer provisional. As indicated in the final Office action, the rejection was no longer provisional.

*Scott D. Priebe*

Scott D. Priebe  
Primary Examiner  
Art Unit: 1632